

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 6

Citations Affected: IC 11-13-3-3; IC 11-13-3-4; IC 31-30-1-2.5; IC 35-38-2-2.5; IC 35-44-3-13; IC 35-50-6-1.

Synopsis: Sex offenders. Conference committee report for ESB 6. Provides that a sexually violent predator who commits an offense after June 30, 2006, must be placed on lifetime parole when the person's term of imprisonment is completed. Provides that a person who violates a condition of lifetime parole after the person's lifetime parole has been revoked two or more times or after completing the person's sentence (including any credit time) commits a Class D felony if the violation involves contact with a child or a victim of the child molesting offense of which the person was convicted, and a Class C felony if the person has a prior unrelated lifetime parole violation conviction. Specifies that a sexually violent predator in another state whose parole is transferred to Indiana may also required to be placed on lifetime parole. Provides that, if a person being supervised on lifetime parole is also required to be supervised by a probation department or similar agency, the probation department or similar agency may have sole supervision of the person if the parole board finds that supervision by the probation department or other agency will be at least as stringent and effective as supervision by the parole board. Prohibits a sexually violent predator from obtaining a waiver for certain residency restrictions imposed as part of probation or parole, and requires the department of correction to report to the budget committee before August 1, 2006, concerning the feasibility of recovering the expense of GPS monitoring from an offender. Requires a sexually violent predator placed on lifetime parole to wear a GPS monitoring device. Requires the department of correction to report annually to the legislative
(continued on next page)

Effective: Upon passage; July 1, 2006.

(Digest continued)

council concerning the department's implementation of lifetime parole and GPS monitoring of sex offenders, including information concerning costs, recidivism, and proposals to reduce cost or increase efficiency. Requires the sentencing policy study committee to study issues related to sex offenders, including: (1) lifetime parole; (2) GPS monitoring; (3) a classification system for sex offenders; (4) recidivism; and (5) treatment. Adds a psychiatrist or psychologist to the sentencing policy study committee as a nonvoting advisor. **(This conference committee report does the following: Provides that lifetime parole applies to all sexually violent predators. (SB 6 required only child molesters over the age of 18 to be placed on lifetime parole). Removes: (1) a mandatory sentence enhancement for certain child molesters and persons who committed certain offenses against children; (2) a provision relating to mandatory incarceration of juveniles; and (3) a redundant provision relating to adoption.)**

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 6 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 11-13-3-3 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A person
- 4 sentenced under IC 35-50 shall be released on parole or discharged
- 5 from the person's term of imprisonment under IC 35-50 without a
- 6 parole release hearing.
- 7 (b) A person sentenced for an offense under laws other than IC 35-50
- 8 who is eligible for release on parole, or a person whose parole is
- 9 revoked and is eligible for reinstatement on parole under rules adopted
- 10 by the parole board shall, before the date of the person's parole
- 11 eligibility, be granted a parole release hearing to determine whether
- 12 parole will be granted or denied. The hearing shall be conducted by one
- 13 (1) or more of the parole board members. If one (1) or more of the
- 14 members conduct the hearing on behalf of the parole board, the final
- 15 decision shall be rendered by the full parole board based upon the
- 16 record of the proceeding and the hearing conductor's findings. Before
- 17 the hearing, the parole board shall order an investigation to include the
- 18 collection and consideration of:
- 19 (1) reports regarding the person's medical, psychological,
- 20 educational, vocational, employment, economic, and social
- 21 condition and history;
- 22 (2) official reports of the person's history of criminality;
- 23 (3) reports of earlier parole or probation experiences;

- (4) reports concerning the person's present commitment that are relevant to the parole release determination;
- (5) any relevant information submitted by or on behalf of the person being considered; and
- (6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:

- (1) to be discharged from imprisonment;
- (2) to be released on parole under IC 35-50-6-1;
- (3) to have a parole release hearing under this chapter;
- (4) to have a parole violation hearing;
- (5) an escaped committed offender; or
- (6) to be released from departmental custody under any temporary release program administered by the department, including the following:

(A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a regulated community assignment program.

(B) Assignment to a minimum security work release program.

(d) The department shall make the notification required under subsection (c):

- (1) at least forty (40) days before a discharge, release, or hearing occurs; and
- (2) not later than twenty-four (24) hours after the escape of a committed offender.

The department shall supply the information to a victim (or a next of kin of a victim in the appropriate case) and a witness at the address supplied to the department by the victim (or next of kin) or witness. A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

(e) The probation officer conducting the presentence investigation shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim. A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

(f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not have access to the name and address of a victim and a witness. Upon the filing of a motion by any person requesting or objecting to the

1 release of victim information, witness information, or both that is
 2 retained by the department, the court shall review the information that
 3 is the subject of the motion in camera before ruling on the motion.

4 (g) The notice required under subsection (c) must specify whether the
 5 prisoner is being discharged, is being released on parole, **is being**
 6 **released on lifetime parole**, is having a parole release hearing, is
 7 having a parole violation hearing, or has escaped. The notice must
 8 contain the following information:

- 9 (1) The name of the prisoner.
- 10 (2) The date of the offense.
- 11 (3) The date of the conviction.
- 12 (4) The felony of which the prisoner was convicted.
- 13 (5) The sentence imposed.
- 14 (6) The amount of time served.
- 15 (7) The date and location of the interview (if applicable).

16 (h) The parole board shall adopt rules under IC 4-22-2 and make
 17 available to offenders the criteria considered in making parole release
 18 determinations. The criteria must include the:

- 19 (1) nature and circumstances of the crime for which the offender is
 20 committed;
- 21 (2) offender's prior criminal record;
- 22 (3) offender's conduct and attitude during the commitment; and
- 23 (4) offender's parole plan.

24 (i) The hearing prescribed by this section may be conducted in an
 25 informal manner without regard to rules of evidence. In connection with
 26 the hearing, however:

- 27 (1) reasonable, advance written notice, including the date, time, and
 28 place of the hearing shall be provided to the person being
 29 considered;
- 30 (2) the person being considered shall be given access, in accord
 31 with IC 11-8-5, to records and reports considered by the parole
 32 board in making its parole release decision;
- 33 (3) the person being considered may appear, speak in the person's
 34 own behalf, and present documentary evidence;
- 35 (4) irrelevant, immaterial, or unduly repetitious evidence shall be
 36 excluded; and
- 37 (5) a record of the proceeding, to include the results of the parole
 38 board's investigation, notice of the hearing, and evidence adduced
 39 at the hearing, shall be made and preserved.

40 (j) If parole is denied, the parole board shall give the person written
 41 notice of the denial and the reasons for the denial. The parole board
 42 may not parole a person if it determines that there is substantial reason
 43 to believe that the person:

- 44 (1) will engage in further specified criminal activity; or
- 45 (2) will not conform to appropriate specified conditions of parole.

46 (k) If parole is denied, the parole board shall conduct another parole
 47 release hearing not earlier than five (5) years after the date of the
 48 hearing at which parole was denied. However, the board may conduct
 49 a hearing earlier than five (5) years after denial of parole if the board:

- 50 (1) finds that special circumstances exist for the holding of a
 51 hearing; and

1 (2) gives reasonable notice to the person being considered for
2 parole.

3 (l) The parole board may parole a person who is outside Indiana on
4 a record made by the appropriate authorities of the jurisdiction in which
5 that person is imprisoned.

6 (m) If the board is considering the release on parole of an offender
7 who is serving a sentence of life in prison, a determinate term of
8 imprisonment of at least ten (10) years, or an indeterminate term of
9 imprisonment with a minimum term of at least ten (10) years, in
10 addition to the investigation required under subsection (b), the board
11 shall order and consider a community investigation, which must include
12 an investigation and report that substantially reflects the attitudes and
13 opinions of:

14 (1) the community in which the crime committed by the offender
15 occurred;

16 (2) law enforcement officers who have jurisdiction in the
17 community in which the crime occurred;

18 (3) the victim of the crime committed by the offender, or if the
19 victim is deceased or incompetent for any reason, the victim's
20 relatives or friends; and

21 (4) friends or relatives of the offender.

22 If the board reconsiders for release on parole an offender who was
23 previously released on parole and whose parole was revoked under
24 section 10 of this chapter, the board may use a community investigation
25 prepared for an earlier parole hearing to comply with this subsection.
26 However, the board shall accept and consider any supplements or
27 amendments to any previous statements from the victim or the victim's
28 relatives or friends.

29 (n) As used in this section, "victim" means a person who has suffered
30 direct harm as a result of a violent crime (as defined in IC 5-2-6.1-8).

31 SECTION 2. IC 11-13-3-4, AS AMENDED BY SEA 246-2006,
32 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2006]: Sec. 4. (a) A condition to remaining on parole is that
34 the parolee not commit a crime during the period of parole.

35 (b) The parole board may also adopt, under IC 4-22-2, additional
36 conditions to remaining on parole and require a parolee to satisfy one
37 (1) or more of these conditions. These conditions must be reasonably
38 related to the parolee's successful reintegration into the community and
39 not unduly restrictive of a fundamental right.

40 (c) If a person is released on parole the parolee shall be given a
41 written statement of the conditions of parole. Signed copies of this
42 statement shall be:

43 (1) retained by the parolee;

44 (2) forwarded to any person charged with the parolee's supervision;
45 and

46 (3) placed in the parolee's master file.

47 (d) The parole board may modify parole conditions if the parolee
48 receives notice of that action and had ten (10) days after receipt of the
49 notice to express the parolee's views on the proposed modification. This
50 subsection does not apply to modification of parole conditions after a
51 revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex ~~and violent~~ offender (as defined in IC 5-2-12-4) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is ~~an~~ a sex offender (as defined in IC 5-2-12-4) to register with a ~~sheriff (or the police chief of a consolidated city)~~ **local law enforcement authority** under IC 5-2-12-5;

(B) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, **unless the sex offender obtains written approval from the parole board; and**

(C) prohibit a parolee who is ~~an~~ a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense **unless the sex offender obtains a waiver under IC 35-38-2-2.5; and**

(D) prohibit a parolee from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age.

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) a waiver under subdivision (2)(B) or

(2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is an a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex offender (as defined in IC 5-2-12-4);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(j) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.5, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

SECTION 3. IC 31-30-1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. A juvenile court may not appoint a person to serve as the guardian or custodian of a child if the person is:

(1) a sexually violent predator (as described in IC 35-38-1-7.5); or

(2) a person who was at least eighteen (18) years of age at the time of the offense and who committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

(A) by using or threatening the use of deadly force;

(B) while armed with a deadly weapon; or

(C) that resulted in serious bodily injury.

SECTION 4. IC 35-38-2-2.5, AS AMENDED BY SEA 246-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) As used in this section, "offender" means an individual convicted of a sex offense.

(b) As used in this section, "sex offense" means any of the following:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual battery (IC 35-42-4-8).

(9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(10) Incest (IC 35-46-1-3).

(c) A condition of remaining on probation or parole after conviction

for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.

(d) An offender:

(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:

(A) at the time of sentencing if the offender will be placed on probation without first being incarcerated; or

(B) before the offender's release from incarceration if the offender will be placed on probation after completing a term of incarceration; or

(2) who will be placed on parole shall provide the parole board with the address where the offender intends to reside during the period of parole.

(e) An offender, while on probation or parole, may not establish a **new** residence within one (1) mile of the residence of the victim of the offender's sex offense **unless the offender first obtains a waiver from the:**

(1) court, if the offender is placed on probation; or

(2) parole board, if the offender is placed on parole;

for the change of address under subsection (f).

(f) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the offender is present and of which the prosecuting attorney has been notified, determines that:

(1) the offender has successfully completed a sex offender treatment program during the period of probation or parole;

(2) the offender is in compliance with all terms of the offender's probation or parole; and

(3) good cause exists to allow the offender to reside within one (1) mile of the residence of the victim of the offender's sex offense.

However, the court or parole board may not grant a waiver under this subsection if the offender is a sexually violent predator under IC 35-38-1-7.5.

(g) If the court or parole board grants a waiver under subsection (f), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(~~f~~) (h) The address of the victim of the offender's sex offense is confidential even if the court or parole board grants a waiver under subsection (f).

SECTION 5. IC 35-44-3-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13. (a) A person who is being supervised on lifetime parole (as described in IC 35-50-6-1) and who knowingly or intentionally violates a condition of lifetime parole that involves direct or indirect contact with a child less than sixteen (16) years of age or with the victim of a sex crime described in IC 5-2-12-4 that was committed by the person commits a Class D felony if, at the time of the violation:**

(1) the person's lifetime parole has been revoked two (2) or more times; or

(2) the person has completed the person's sentence, including any credit time the person may have earned.

(b) The offense described in subsection (a) is a Class C felony if the person has a prior unrelated conviction under this section.

SECTION 6. IC 35-50-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except as provided in subsection (d) or (e), when a person imprisoned for a felony completes ~~his~~ **the person's** fixed term of imprisonment, less the credit time ~~he~~ **the person** has earned with respect to that term, ~~he~~ **the person** shall be:

(1) released on parole for not more than twenty-four (24) months, as determined by the parole board;

(2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or

(3) released to the committing court if ~~his~~ **the** sentence included a period of probation.

(b) Except as provided in subsection (d), This subsection does not apply to a person described in subsection (d), (e), or (f). A person released on parole remains on parole from the date of ~~his~~ release until ~~his~~ **the person's** fixed term expires, unless ~~his~~ **the person's** parole is revoked or ~~he~~ **the person** is discharged from that term by the parole board. In any event, if ~~his~~ **the person's** parole is not revoked, the parole board shall discharge ~~him~~ **the person** after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for **all or part of** the remainder of ~~his~~ **the person's** fixed term. However, ~~he~~ **the person** shall again be released on parole when ~~he~~ **the person** completes that remainder, less the credit time ~~he~~ **the person** has earned since the revocation. The parole board may reinstate ~~him~~ **the person** on parole at any time after the revocation.

(d) This subsection does not apply to a person who is a sexually violent predator under IC 35-38-1-7.5. When ~~an offender a sex offender~~ (as defined in IC 5-2-12-4) completes the **sex** offender's fixed term of imprisonment, less credit time earned with respect to that term, the **sex** offender shall be placed on parole for not more than ten (10) years.

(e) This subsection applies to a person who is a sexually violent predator under IC 35-38-1-7.5. When a sexually violent predator completes the person's fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole for the remainder of the person's life.

(f) This subsection applies to a parolee in another jurisdiction who is a sexually violent predator under IC 35-38-1-7.5 and whose parole supervision is transferred to Indiana from another jurisdiction. In accordance with IC 11-13-4-1(2) (Interstate Compact for Out-of-State Probationers and Parolees) and rules adopted under Article VII (d)(8) of the Interstate Compact for

1 Adult Offender Supervision (IC 11-13-4.5), a parolee who is a
 2 sexually violent predator and whose parole supervision is
 3 transferred to Indiana is subject to the same conditions of parole
 4 as a sexually violent predator convicted in Indiana, including:

- 5 (1) lifetime parole (as described in subsection (e)); and
- 6 (2) the requirement that the person wear a monitoring device
 7 (as described in IC 35-38-2.5-3) that can transmit information
 8 twenty-four (24) hours each day regarding a person's precise
 9 location, if applicable.

10 (g) If a person being supervised on lifetime parole as described in
 11 subsection (e) is also required to be supervised by a court, a
 12 probation department, a community corrections program, a
 13 community transition program, or another similar program upon
 14 the person's release from imprisonment, the parole board may:

- 15 (1) supervise the person while the person is being supervised by
 16 the other supervising agency; or
- 17 (2) permit the other supervising agency to exercise all or part
 18 of the parole board's supervisory responsibility during the
 19 period in which the other supervising agency is required to
 20 supervise the person, if supervision by the other supervising
 21 agency will be, in the opinion of the parole board:

22 (A) at least as stringent; and

23 (B) at least as effective;

24 as supervision by the parole board.

25 (h) The parole board is not required to supervise a person on
 26 lifetime parole during any period in which the person is
 27 imprisoned. However, upon the person's release from
 28 imprisonment, the parole board shall recommence its supervision
 29 of a person on lifetime parole.

30 SECTION 7. [EFFECTIVE JULY 1, 2006] IC 35-44-3-13, as added
 31 by this act, applies only to crimes committed after June 30, 2006.

32 SECTION 8. [EFFECTIVE JULY 1, 2006] IC 35-50-6-1, as
 33 amended by this act, applies only to a person who commits a crime
 34 after June 30, 2006.

35 SECTION 9. [EFFECTIVE UPON PASSAGE] (a) The department
 36 of correction shall report to the budget committee on or before
 37 August 1, 2006, concerning the estimated costs of implementing
 38 IC 11-13-3-4(i), as added by this act, and the feasibility of
 39 recovering those costs from offenders.

40 (b) This SECTION expires July 1, 2007.

41 SECTION 10. [EFFECTIVE JULY 1, 2006] (a) The department of
 42 correction shall report to the legislative council before November
 43 1 of each year concerning the department's implementation of
 44 lifetime parole and GPS monitoring for sex offenders. The report
 45 must include information relating to:

- 46 (1) the expense of lifetime parole and GPS monitoring;
- 47 (2) recidivism; and
- 48 (3) any proposal to make the program of lifetime parole and
 49 GPS monitoring less expensive or more effective, or both.

50 (b) The report described in subsection (a) must be in an
 51 electronic format under IC 5-14-6.

(c) This SECTION expires November 2, 2010.

SECTION 11. P.L.61-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 1. (a) As used in this SECTION, "committee" refers to the sentencing policy study committee established by subsection (c).

(b) The general assembly finds that a comprehensive study of sentencing laws and policies is desirable in order to:

- (1) ensure that sentencing laws and policies protect the public safety;
- (2) establish fairness and uniformity in sentencing laws and policies;
- (3) determine whether incarceration or alternative sanctions are appropriate for various categories of criminal offenses; and
- (4) maximize cost effectiveness in the administration of sentencing laws and policies.

(c) The sentencing policy study committee is established to evaluate sentencing laws and policies as they relate to:

- (1) the purposes of the criminal justice and corrections systems;
- (2) the availability of sentencing options; and
- (3) the inmate population in department of correction facilities.

If, based on the committee's evaluation under this subsection, the committee determines changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

(d) The committee shall do the following:

(1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:

- (A) The nature and degree of harm likely to be caused by the offense, including whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.
- (B) The deterrent effect a particular classification may have on the commission of the offense.
- (C) The current incidence of the offense in Indiana.
- (D) The rights of the victim.

(2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest. The committee shall also consider the following:

- (A) The nature and characteristics of the offense.
- (B) The severity of the offense in relation to other offenses.
- (C) The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct.
- (D) The defendant's number of prior convictions.
- (E) The available resources and capacity of the department of correction, local confinement facilities, and community based

- 1 sanctions.
- 2 (F) The rights of the victim.
- 3 The committee shall include with each set of sentencing structures
- 4 an estimate of the effect of the sentencing structures on the
- 5 department of correction and local facilities with respect to both
- 6 fiscal impact and inmate population.
- 7 (3) Review community corrections and home detention programs
- 8 for the purpose of:
- 9 (A) standardizing procedures and establishing rules for the
- 10 supervision of home detainees; and
- 11 (B) establishing procedures for the supervision of home detainees
- 12 by community corrections programs of adjoining counties.
- 13 (4) Determine the long range needs of the criminal justice and
- 14 corrections systems and recommend policy priorities for those
- 15 systems.
- 16 (5) Identify critical problems in the criminal justice and corrections
- 17 systems and recommend strategies to solve the problems.
- 18 (6) Assess the cost effectiveness of the use of state and local funds
- 19 in the criminal justice and corrections systems.
- 20 (7) Recommend a comprehensive community corrections strategy
- 21 based on the following:
- 22 (A) A review of existing community corrections programs.
- 23 (B) The identification of additional types of community
- 24 corrections programs necessary to create an effective continuum
- 25 of corrections sanctions.
- 26 (C) The identification of categories of offenders who should be
- 27 eligible for sentencing to community corrections programs and
- 28 the impact that changes to the existing system of community
- 29 corrections programs would have on sentencing practices.
- 30 (D) The identification of necessary changes in state oversight and
- 31 coordination of community corrections programs.
- 32 (E) An evaluation of mechanisms for state funding and local
- 33 community participation in the operation and implementation of
- 34 community corrections programs.
- 35 (F) An analysis of the rate of recidivism of clients under the
- 36 supervision of existing community corrections programs.
- 37 (8) Propose plans, programs, and legislation for improving the
- 38 effectiveness of the criminal justice and corrections systems.
- 39 (9) Evaluate the use of faith based organizations as an alternative
- 40 to incarceration.
- 41 **(10) Study issues related to sex offenders, including:**
- 42 **(A) lifetime parole;**
- 43 **(B) GPS or other electronic monitoring;**
- 44 **(C) a classification system for sex offenders;**
- 45 **(D) recidivism; and**
- 46 **(E) treatment.**
- 47 (e) The committee may study other topics assigned by the legislative
- 48 council or as directed by the committee chair. **The committee may**
- 49 **meet as often as necessary.**
- 50 (f) The committee consists of ~~nineteen (19)~~ **twenty (20)** members
- 51 appointed as follows:

- 1 (1) Four (4) members of the senate, not more than two (2) of whom
- 2 may be affiliated with the same political party, to be appointed by
- 3 the president pro tempore of the senate.
- 4 (2) Four (4) members of the house of representatives, not more than
- 5 two (2) of whom may be affiliated with the same political party, to
- 6 be appointed by the speaker of the house of representatives.
- 7 (3) The chief justice of the supreme court or the chief justice's
- 8 designee.
- 9 (4) The commissioner of the department of correction or the
- 10 commissioner's designee.
- 11 (5) The director of the Indiana criminal justice institute or the
- 12 director's designee.
- 13 (6) The executive director of the prosecuting attorneys council of
- 14 Indiana or the executive director's designee.
- 15 (7) The executive director of the public defender council of Indiana
- 16 or the executive director's designee.
- 17 (8) One (1) person with experience in administering community
- 18 corrections programs, appointed by the governor.
- 19 (9) One (1) person with experience in administering probation
- 20 programs, appointed by the governor.
- 21 (10) Two (2) judges who exercise juvenile jurisdiction, not more
- 22 than one (1) of whom may be affiliated with the same political
- 23 party, to be appointed by the governor.
- 24 (11) Two (2) judges who exercise criminal jurisdiction, not more
- 25 than one (1) of whom may be affiliated with the same political
- 26 party, to be appointed by the governor.
- 27 **(12) One (1) board certified psychologist or psychiatrist who**
- 28 **has expertise in treating sex offenders, appointed by the**
- 29 **governor to act as a nonvoting advisor to the committee.**
- 30 (g) The chairman of the legislative council shall appoint a legislative
- 31 member of the committee to serve as chair of the committee. Whenever
- 32 there is a new chairman of the legislative council, the new chairman
- 33 may remove the chair of the committee and appoint another chair.
- 34 (h) If a legislative member of the committee ceases to be a member
- 35 of the chamber from which the member was appointed, the member
- 36 also ceases to be a member of the committee.
- 37 (i) A legislative member of the committee may be removed at any
- 38 time by the appointing authority who appointed the legislative member.
- 39 (j) If a vacancy exists on the committee, the appointing authority who
- 40 appointed the former member whose position is vacant shall appoint an
- 41 individual to fill the vacancy.
- 42 (k) The committee shall submit a final report of the results of its study
- 43 to the legislative council before November 1, 2006. The report must be
- 44 in an electronic format under IC 5-14-6.
- 45 (l) The Indiana criminal justice institute shall provide staff support to
- 46 the committee.
- 47 (m) Each member of the committee is entitled to receive the same per
- 48 diem, mileage, and travel allowances paid to individuals who serve as
- 49 legislative and lay members, respectively, of interim study committees
- 50 established by the legislative council.
- 51 (n) The affirmative votes of a majority of the **voting** members

- 1 appointed to the committee are required for the committee to take
2 action on any measure, including the final report.
- 3 (o) Except as otherwise specifically provided by this act, the
4 committee shall operate under the rules of the legislative council. All
5 funds necessary to carry out this act shall be paid from appropriations
6 to the legislative council and legislative services agency.
- 7 (p) This SECTION expires December 31, 2006.
- 8 **SECTION 12. An emergency is declared for this act.**
(Reference is to ESB 6 as reprinted March 1, 2006.)

Conference Committee Report
on
Engrossed Senate Bill 6

Signed by:

Senator Steele
Chairperson

Representative Foley

Senator Mrvan

Representative Grubb

Senate Conferees

House Conferees